

California High-Speed Rail



Agreement Status

Entity: Madera Irrigation District

Entity Role:	<u>The Madera Irrigation District will review and approve Facility Plans and have a reasonable number of representatives on site of Project to verify that the Facility Work is being properly performed by Authority's Contractor and approve that work.</u>
Master Agreement:	<u>Master Agreement technical review is 100% complete. The Madera Irrigation District is conducting a final Master Agreement legal review. Master Agreement is expected to be executed by August 17, 2012.</u>
Task Orders:	<u>Draft Task Order 1 has been prepared. The Madera Irrigation District has provided comments to the Draft Task Order 1.</u>

DISCLAIMER: Because the Master Agreement has not yet been approved by the Madera Irrigation District Board of Directors, the Authority cannot represent that there will be no substantive changes to the draft Master Agreement as provided, although the Madera Irrigation District staff has reviewed the Master Agreement. The Master Agreement and draft Task Orders are being provided for informational purposes only and are subject to the express limitations set forth in the General Provisions.



AGREEMENT REGARDING HIGH-SPEED RAIL CROSSING OF MADERA IRRIGATION DISTRICT FACILITIES

THIS AGREEMENT is made effective as of _____, 2012 by and between (i) the California High Speed Rail Authority, an agency of the State of California ("AUTHORITY") and (ii) the Madera Irrigation District, a California irrigation district ("MID"). AUTHORITY and MID are sometimes referred to below individually as "Party" and together as the "Parties."

RECITALS

A. MID owns, operates, and maintains certain facilities for the delivery of agricultural irrigation water and groundwater recharge ("MID Facilities") under its authority as an irrigation district under Section 20500 et seq. of the California Water Code. MID's service area includes portions of the AUTHORITY'S high-speed rail corridor.

B. The AUTHORITY desires to install, maintain, repair and replace certain high-speed rail related facilities ("Rail Facilities") in and over real property in which MID has rights of way or owns in fee for MID Facilities. In many instances, the construction and operation of the Rail Facilities will require modification or replacement of MID Facilities.

C. The Parties desire to provide terms for the modification or replacement of various MID Facilities in connection with construction of Rail Facilities ("Projects"). The parties further desire to provide for the common use of their respective rights-of-way where such areas overlap.

NOW THEREFORE, in consideration of the mutual terms and conditions contained herein, the Parties agree as follows:

Article I DEFINITIONS

The following terms shall have the following meanings as used in this Agreement:

"AUTHORITY" is defined in the Preamble.

"AUTHORITY Project" means a segment of the Rail Facilities (as determined by the AUTHORITY) and the work undertaken or contracted for by the AUTHORITY to construct, improve, maintain and/or operate such segment (including new construction as well as reconstruction of, or other modification of existing Rail Facilities). All references herein to the "AUTHORITY Project" refer to the AUTHORITY Project that impacts the ~~FID~~MID Facilities, and when used in reference to a particular ~~FID~~MID Facility, refer to the AUTHORITY Project that impacts the referenced ~~FID~~MID Facility.

"Betterment" means ~~the difference in cost between the intended relocation of MID's Facilities as proposed and submitted by AUTHORITY or Authority's Contractor and~~ the cost of any upgrades to the MID ~~Facility~~ Facilities not attributable to the AUTHORITY Project and made solely for the benefit, and at the election of MID. As employed herein, for the sake of clarification Betterment does not include: (i) those differences in cost caused by changes in

manufacturing standards, availability of materials, regulatory requirements or any upgrades required by MID's ~~standard customary practices, drawings and~~ specifications, or (ii) standards of practice and construction methods applied to comparable MID Facilities constructed by or for MID at its own expense, that are in effect as of the date of execution of the specific Task Order for that MID Facility ~~iesy Work, or (iii) facility upgrades that would otherwise be required of private parties whose activities affect MID Facilities, in anticipation of future system requirement to handle increased stormwater flows resulting from development.~~

"Claims" is defined in Section 4.1.

"Common Use Area" is defined in Section 5.1.

"Common Use Agreement" is defined in Section 5.1.

"Construction Contract" means the contract between the AUTHORITY and the Authority's Contractor for construction (with or without design) of the Project work that is impacting FIDMID. All references herein to "the Construction Contract" refer to the Construction Contract(s) for the Project(s) that impact FIDMID Facilities, and when used in reference to a particular FIDMID Facility, refer to the Construction Contract that impacts the referenced FIDMID Facility.

"Authority's Contractor" is defined in Section 3.2.

"Engineer" is defined in Section 2.1.

"Hazardous Material(s)" means any hazardous substance, hazardous material, or hazardous waste as defined under state or federal law.

"MID" is defined in the Preamble. For any provision of this Agreement where MID is to be indemnified, "MID" shall also include MID's directors, officers, employees, agents and volunteers.

"MID Facilities" is defined in Recital A.

"MID Facility Work" is, in general, the modification, protection or Relocation of existing MID Facilities, or the construction of new MID Facilities (or any combination thereof) that will be or remain the property of MID.

"MID Right-of-Way" shall mean any real property rights held by MID for the location and operation of MID Facilities, including, but not limited to, fee title and easement rights.

"Rail Facilities" is defined in Recital B.

"Plans and Specifications" is defined in Section 2.1.

"Prior Rights" is defined in Section 3.11.

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“Projects” is defined in Recital C.

“Relocation” means removal, protection or any other rearrangement or modification of an MID Facility as ordered and approved by the AUTHORITY to accommodate any of the AUTHORITY’S Projects that may impact MID Facilities. Relocation shall include, but not be limited to, the preparation and submission by Authority’s Contractor of Relocation plans or drawings sufficiently engineered to allow for the construction of the ordered Relocation, and a detailed estimate by FIDMID of the actual and necessary cost of the ordered Relocation including review and inspection for approval by the Authority and/or MID.

“Stakeholders” shall mean the AUTHORITY, the Authority’s Contractor, and all parties with property or facilities affected by a Project.

“State” shall mean the State of California.

“Task Order” is defined in Section 3.3.

“Unforeseen Work” means any new and/or extra work found essential to the satisfactory completion of the Projects and not covered by any of the various Task Orders ~~for which there is a bid price or by combination of such items.~~

“Wasted Work” means design, design review, ~~or~~ construction work or inspection performed by MID upon written direction from the AUTHORITY, for a Relocation rendered useless or unnecessary as a result of AUTHORITY’S cancellation and/or changes in the scope of work as agreed to by the Parties. This term includes any other design or construction work that is needed to ~~accomplish/accommodate~~ the scope of work of the AUTHORITY Project and is subsequently rendered unnecessary ~~at some later date.~~

Article II DESIGN AND ENGINEERING

2.1 Design/Build. AUTHORITY shall cause the Authority’s Contractor (as defined below) to prepare drawings, plans and specifications as necessary to set forth in detail the requirements for the MID Facility Work to be performed under this Agreement (the “Plans and Specifications”), as otherwise provided in Exhibit A hereto. The AUTHORITY shall cause Authority’s Contractor to select either Provost & Pritchard Engineering Group, Inc. or Blair, Church & Flynn, to design the Plans and Specifications (the “Engineer”).

Article III WORK TO BE DONE

3.1 MID Facility Work. The AUTHORITY or the Authority’s Contractor (as defined below) shall perform the MID Facility Work in accordance with the Plans and Specifications applicable to each Project. MID Facility Work includes the permitting related to the Relocation,

as well as any necessary certification or coordination with regulatory agencies and any other miscellaneous work related to the Relocation of an existing or construction of a new (or any combination thereof) MID Facility. MID Facility Work specific to a particular MID Facility's Relocation or replacement shall be detailed in a subsequently executed Task Order.

3.2 Authority's Contractor. The MID Facility Work shall be performed by licensed, qualified contractors to be hired by the AUTHORITY (each a "Authority's Contractor"). MID shall have no responsibility to pay for any Facility Work, except as MID may otherwise agree in writing. The Authority's Contractor, subcontractors or other individuals directly or indirectly hired or employed by the AUTHORITY shall have the skills and experience required to perform the MID Facility Work assigned to them.

3.3 Task Orders. Work specific to ~~a~~ particular MID Facility ~~ies relocationy~~ (i.e., a Project) shall be detailed in a subsequently executed Task Order Agreement to be executed by the AUTHORITY, the Authority's Contractor and MID ("Task Order"). Any deviation from the Plans and Specifications for a Task Order must be agreed upon by the Parties and memorialized in an amendment to the relevant Task Order, and no such deviation from the original Task Order shall commence without a fully executed amendment. The Task Order will set forth the arrangements between the Parties regarding scope of work, schedule, cost, cost apportionment, billing, payment, documentation, document retention, accounting and coordination as it relates to the MID Facility ~~iesy~~ Work for a specific MID Facility ~~iesy~~. Format of the Task Order and its content shall be mutually agreed upon by the AUTHORITY, the Authority's Contractor, and MID, subject to the compliance of the requirements of this agreement. Task Orders may cover relocation of a single MID Facility, or a group of MID Facilities.

3.4 General AUTHORITY Responsibility. In performing the MID Facility Work, the AUTHORITY (either directly or through its Contactor) shall be solely responsible for:

- (a) Ensuring that all construction means, methods, techniques, sequences and procedures, and construction quality conform to the Plans and Specifications, as modified by agreement of the Parties and Authority's Contractor.
- (b) Project site safety, including implementing, maintaining and supervising a project safety plan;
- (c) Coordinating all portions of the Project;
- (d) Implementation of all reasonable measures and precautions to prevent damage, injury or loss to: (i) all persons who are on the Project site or who could foreseeably be affected by construction of the Project; (ii) the Project and materials and equipment to be incorporated therein; and (iii) other property at or adjacent to the Project site;
- (e) Provision of appropriate security for the Project site;
- (f) ~~Continuous Reasonable~~ clean-up of the Project site at the end of each day during which work on the Project site is performed;

(g) Risk of loss for damage to or loss to the MID Facility Work or of any property at the Project site occurring prior to final acceptance by MID;

(h) Securing, at its expense, any permits and governmental approvals necessary for the proper execution and completion of the Project;

(i) Giving any notices required by laws, ordinances, rules, regulations and lawful orders of public authorities;

(j) Ensuring that all Projects remain free and clear of any and all claims for labor, materials, and design services; ~~and~~

(h) Perform the MID Facility Work using best professional skill and judgment, acting with due care and in accordance with professional standards of care and construction practices generally accepted as standards of the industry in the State of California; ~~and~~

(i) Complete the MID Facility Work on a timely basis, with due consideration given to MID's irrigation schedules.

When all or portions of the MID Facility Work are performed by ~~the~~ Authority's Contractor, MID shall have access to all phases of the MID Facility Work for the purpose of inspection to ensure that the relevant MID Facility Work is completed in accordance with the Task Order pertaining to that work; however, all questions regarding the work being performed will be directed to ~~the~~ AUTHORITY or its authorized agent for evaluation and final disposition. Notwithstanding the foregoing, MID shall not disrupt or interfere with the MID Facility Work or the AUTHORITY Project.

~~Upon AUTHORITY's written notice to MID, MID shall consider Authority's Contractor as acting on behalf of AUTHORITY on all matters pertaining to Projects that are specifically identified in said notice and shall treat any direction given by Authority's Contractor on those identified matters as if it were given by AUTHORITY.~~

3.5 General Project Construction Requirements. General construction requirements for MID Facility Work are set forth in Exhibit B hereto. Exceptions from such requirements may be made for specific Projects by notice from the AUTHORITY TO MID.

3.6 MID Representatives. MID shall be entitled to have a reasonable number of representatives, including the Engineer, on the site of each Project to verify that the work is being properly performed by ~~the~~ Authority's Contractor. The presence of such representative, however, is solely for MID's benefit, and shall not relieve ~~the~~ AUTHORITY of its obligation to supervise and perform the MID Facility Work in accordance with the Plans and Specifications and otherwise in accordance with this Agreement and the applicable Task Order. Notwithstanding the foregoing, ~~FID~~MID representatives, including the Engineer, shall not disrupt or interfere with the ~~FID~~MID Facility Work or the AUTHORITY Project.

3.7 Acceptance. Upon completion of a Project in accordance with the Plans and Specifications, as provided in writing by AUTHORITY or Authority's Contractor to

~~MID, including written certification by the Engineer that the Project conforms to the Plans and Specifications,~~ and after the expiration of the enforcement period for any stop notices filed in connection with the Project, MID ~~agrees to shall~~ accept ownership and maintenance of the constructed ~~facilities~~ MID Facilities. MID shall not be required to accept ownership of any Project which is the subject of filed and ongoing litigation.

3.8 Unforeseen Work. If ~~Un~~foreseen ~~W~~work arises during the performance of the MID Facility Work, it shall be performed under the Task Order that is applicable to the MID Facility Work it arose in connection with. The AUTHORITY shall be responsible for the cost of any ~~Un~~foreseen ~~W~~work.

3.9 Hazardous Material. Upon discovery of Hazardous Material in connection with the MID Facility Work, both MID and ~~the~~ AUTHORITY shall immediately confer to explore all reasonable alternatives and agree on a course of action in compliance with existing statutes or regulations concerning the disposition of Hazardous Material. ~~The AUTHORITY's~~ ~~Contractor~~ will pay, in its entirety, those costs for additional necessary effort undertaken within ~~the~~ AUTHORITY's right-of-way to comply with existing statutes or regulations concerning the disposition of Hazardous Material found as a consequence of that MID Facility Work, unless ~~such conditions~~ ~~the Hazardous Materials~~ are attributable to ~~or were exacerbated by the~~ MID's ~~existing installation~~ Facilities or MID's operations. Those costs for additional necessary efforts undertaken within the area of the replacement property right located outside ~~the~~ AUTHORITY'S right of way which ~~are~~is required to comply with existing statutes or regulations concerning the disposition of Hazardous Material shall be allocated between the Parties pursuant to the provisions of this Article III. Each party to this Agreement retains the right to pursue recovery of its share of any such Hazardous Material related costs from the other party or third parties in accordance with existing law.

3.10 Betterment Work at MID's Request. Any work considered a Betterment, as defined herein, ~~made at MID's request~~ shall be agreed upon in advance by the Parties and detailed in a Task Order, along with costs and allocation of responsibility for such costs to ~~FM~~ MID.

3.11 Liability for Work. Liability for the cost of MID Facility Work shall be determined by statute, superior rights, prescriptive rights ~~(under court order), contractual rights,~~ ~~or by~~ permit, or common law, as applicable, collectively referred to as Prior Rights. MID is responsible to prepare, document, and submit a claim for its declared right of occupancy for each MID Facility for which it claims Prior Rights, which claim shall be subject to the AUTHORITY'S approval. For each MID Facility, the allocation of liability determined to this Section 3 shall be stated in the relevant Task Order, in the defined property area where MID's Facility is located.

3.12 Authority's Expense.

(a) Unless MID agrees otherwise ~~herein~~in writing, MID Facility Work will be performed at ~~the~~ AUTHORITY'S expense ~~in circumstances~~ where by Prior Rights ~~dictate, it is determined~~ that the cost for such work shall be borne by ~~the~~ AUTHORITY. The burden of establishing Prior Rights rests with MID. MID shall have no responsibility to pay for any

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Facility Work, except as provided in Section 3.13 below. The AUTHORITY shall defend, indemnify, and hold MID harmless from any claims for design, labor, materials or similar items in connection with any MID Facility Work, except as provided in Section 3.13 below.

(b) The burden of establishing Prior Rights rests with MID. Prior Rights may be established by (i) recorded documents, plat maps, or other county records, (ii) originals or copies of documents granting an interest in the real property in question to MID, executed by the grantor, (iii) a written statement, executed by an officer of MID, indicating that according to MID's written records, MID has maintained a given facility in its current location for the period of time necessary to establish Prior Rights, or (iv) any other historic document evidencing that an irrigation facilities (public or private) has been located in a given location for the period of time necessary to establish Prior Rights.

3.13 MID's Expense. MID Facility Work will be performed at MID's ~~e~~Expense where: (a) work is ~~mutually~~ determined herein in writing to be a Betterment ~~as defined in Article I;~~ (b) MID is unable to produce adequate documentation of its Prior Rights ~~to the property area where MID's Facility is located pursuant to Section 3.12(b) above;~~ (c) it is determined by Prior Rights that the cost for such work shall be borne by MID; or (d) MID agrees in writing herein.

3.13 Shared Expense. MID Facility Work will be performed at the shared expense of AUTHORITY and MID in circumstances where the Parties agree in ~~advance writing~~ to do so. The proportion of MID Facility Work expense to be borne by each Party shall be ~~detailed clearly identified~~ in the Task Order for that MID Facility Work.

3.14 Liability in Dispute. In signing this Agreement, neither ~~the~~ AUTHORITY nor MID shall diminish their respective positions nor waive any of their respective rights nor does either Party accept liability for any disputed work. ~~The~~ AUTHORITY and MID reserve the right to have disputes regarding liability resolved by future negotiations or as otherwise provided in this Agreement.

3.15 Claims by Authority's Contractor. In the event ~~the~~ Authority's Contractor makes any claim against ~~the~~ AUTHORITY relating to the MID Facility Work, ~~the~~ AUTHORITY will notify MID of the claim, and MID will cooperate with AUTHORITY in assessing and resolving the claim within ~~a reasonable time~~ the required time by the Construction Contract.

3.16 Stakeholder Collaboration. In signing this Agreement, MID agrees to collaborate with ~~the~~ AUTHORITY, ~~the~~ Authority's Contractor, and any other third-party entities affected by the Project(s), including regulatory agencies, local agencies, and public and private utility owners, hereinafter referred to as Stakeholders, to identify collaborative methods for resolving issues that may arise as part of the Project and/or MID Facility Work in an effort to achieve a quality AUTHORITY Project that meets the AUTHORITY Project schedule and budget.

Stakeholders will attend an initial kick-off workshop as well as subsequent periodic meetings as scheduled throughout the duration of the Project. During the initial workshop, Stakeholders will develop procedures and agreements (including Task Orders) as specified in Exhibit C, "Stakeholder Collaboration," included herein, to facilitate the Stakeholder relationship and aid in identifying and resolving issues as they arise throughout the Project(s).

Reimbursement to MID for the cost of participation in the initial workshop and subsequent stakeholder meetings shall be made, ~~at the AUTHORITY's discretion~~ by either the AUTHORITY or the Authority's Contractor.

Subject to the requirements of the California Public Information Records Act, relevant judicial reference statutes and the California Evidence Code, neither the language of this Stakeholder clause, including the language in Exhibit C, nor any statements made or materials prepared during or relating to stakeholder meetings, including any statements made or documents prepared by the facilitator, shall be admissible or discoverable in any judicial or other dispute resolution proceeding.

3.17 Cost of MID Facility Work. Cost of MID Facility Work includes the actual, allowable, allocable and reasonable cost of all necessary engineering, labor and transportation, and all necessary materials exclusive of any dismantled MID Facilities used in any Relocation, together with reasonable and usual indirect and overhead charges attributable to ~~that worksuch~~ MID Facility Work, and any necessary new MID Right-of-Way involved in the MID Facility Work, except that, the AUTHORITY shall be entitled to credit for the cost of any Betterment to the MID Facility included as part of the Project. A credit allowance for age shall not be applied to existing MID Facilities. Except as otherwise provided in this Agreement, eligible MID costs shall include only those authorized under Title 23 C.F.R. Part 645, Subpart A.

In any case in which the AUTHORITY is required under the provisions of this Agreement to pay its share of the cost of relocation of any MID Facility, AUTHORITY shall be entitled to credits as follows:

(1) The amount of any Betterment to the MID Facility~~ties~~ resulting from such R~~e~~location;
and

(2) The salvage value of any materials or parts salvaged or retained by MID.-

A credit shall not be allowed against any portion of the cost that is otherwise chargeable to MID.

A credit allowance for age shall not be applied to publicly owned sewers.

Eligible MID costs shall include only those authorized under Title 23 C.F.R. Part 645, Subpart A. MID agrees that costs referenced in Title 23 C.F.R. Part 645 Section 117(d)(2) are not eligible for reimbursement. These regulations can be found at:

<http://www.access.gpo.gov/nara/cfr/waisidx/cfr-table-search.html>

In conjunction with the foregoing, MID acknowledges and agrees that it shall have no right to salvage any of the materials or parts contained within the MID Facilities and hereby assigns all such salvage rights to the AUTHORITY.

3.18 Payment for the Cost of MID Facility Work.

(a) If the MID Facility Work is at the AUTHORITY's expense, then the AUTHORITY shall pay the Authority's Contractor directly, less the credits determined. MID

shall be responsible to pay the Authority's Contractor for the amount of any credits given to the AUTHORITY as described in subsection (b) below.

(b) If MID Facility Work is at MID's expense and is performed by the Authority's Contractor, MID shall pay or cause payment to be made to the Authority's Contractor (as designated by the AUTHORITY in written notice to MID) in the amounts established pursuant to this Agreement for the cost of MID Facility Work, plus the amount of any credits as determined in Section 3.17.

3.19 Invoicing Procedures. MID will invoice the Authority's Contractor in accordance with the invoicing procedures of the Authority's Contractor, which shall provide for payment to MID not later than 45 days after submission of invoice.

Article IV INDEMNITY AND INSURANCE

4.1 Indemnity by AUTHORITY.

(a) To the fullest extent permitted by law, the AUTHORITY shall defend, indemnify, and hold MID harmless from and against any claims, liabilities, damages, losses and expenses, of any nature whatsoever, arising out of or resulting from the performance of the MID Facilities Work ("Claims"), excepting only such Claims as may be proximately caused by the fault or negligence of, or by the willful misconduct of MID or its respective employees, directors, agents, servants, or independent contractors who are directly responsible to MID. Such indemnity shall extend to Claims occurring after completion of the Project in question, as well as during the construction of such Project.

(b) The AUTHORITY's obligation to defend and indemnify shall not be excused because of the AUTHORITY's inability to evaluate liability or because the AUTHORITY evaluates liability and determines the AUTHORITY is not liable or determines that MID is solely negligent or has acted with willful misconduct. Only a final adjudication or judgment finding that MID is solely negligent or has acted with willful misconduct shall excuse performance of this provision by the AUTHORITY. The AUTHORITY shall pay all costs and fees related to this obligation and its enforcement by MID. MID's delay in notifying the AUTHORITY of a claim shall not release the AUTHORITY of the above duty to defend.

(c) When the AUTHORITY receives notice of a Claim that may have been caused by MID in the performance of services required under this Agreement, the AUTHORITY will immediately forward the Claim to MID. The AUTHORITY and MID will evaluate the claim and report their findings to each other within fourteen (14) working days and will jointly discuss options in defending the Celaim. After reviewing the Claim, the AUTHORITY will determine whether to require the participation of MID in the defense of the Claim or to require MID to defend the AUTHORITY in such Claim. The AUTHORITY's failure to notify MID of a claim shall not release MID from any of the requirements of this section or Section 4.2.

4.2 Indemnity by MID. To the fullest extent permitted by law, MID shall defend, indemnify and hold the AUTHORITY harmless from and against any Claims arising out of or

resulting from the sole or exclusive negligence or willful misconduct of MID or its employees, directors, agents, servants or independent contractors who are directly responsible to MID.

MID's obligation to defend and indemnify shall not be excused because of MID's inability to evaluate liability or because MID evaluates liability and determines MID is not liable or determines the AUTHORITY is solely negligent or has acted with willful misconduct. Only a final adjudication or judgment finding that the AUTHORITY is solely negligent or has acted with willful misconduct shall excuse performance of this provision by MID. MID shall pay all costs and fees related to this obligation and its enforcement by the AUTHORITY. The AUTHORITY's delay in notifying MID of a Celaim shall not release MID of the above duty to defend.

4.3 **Insurance.** Any contract entered into by the AUTHORITY in connection with the MID Facility Work shall contain a provision which requires the Authority's Contractor, as part of the liability insurance requirements, to provide an endorsement (~~using the 1985 edition of form CG 20 10~~ in form acceptable to both Parties) to each policy of general or automobile liability insurance that names as additional insureds to such policy (not subject to any premiums or assessments) MID and the AUTHORITY and their respective officers and employees, as well as such other additional insureds as either Party shall reasonably require (provided that the risk and cost assumed by either Party under this Agreement does not increase as a result of naming such other additional insureds). The parties referred to in the previous sentence are collectively referred to herein as the "Additional Insured Group." Unless otherwise mutually agreed by the Parties, the Authority's Contractor shall provide evidence of at least Commercial General Liability Limits of \$2,000,000, Aggregate; Per Occurance of \$1,000,000; Auto Liability of \$1,000,000; Workers Compensation and Liability of \$1,000,000; with excess/umbrella liability insurance in addition. Prior to commencement ~~of any MID Facility Work, a Certificate~~ insurance certificate evidencing the required coverage shall be provided directly by the insurer to MID and the AUTHORITY, providing that said coverage shall not be reduced in scope or cancelled without thirty (30) days prior written notice to MID and the AUTHORITY. MID recognizes and agrees that all or part of such insurance can be provided by the the AUTHORITY through an owner-controller insurance program.

Comment [A1]: TPA inserted coverage suggested by MID

Article V

AREAS OF COMMON USE; RELOCATED MID FACILITIES

5.1 **Common Use Areas.** MID Facilities shall at all times remain the property of and be properly protected and maintained by MID; subject, however, to the following. Whenever affected MID Facilities will remain within the AUTHORITY's right-of-way (a "Common Use Area"), the AUTHORITY and MID shall jointly execute an agreement for common use of the subject area, such agreement shall be in accordance with the AUTHORITY'S policies and procedures for joint or common use of the AUTHORITY'S right of way.

5.2 **Relocation of MID Rights-of-Way.** Whenever affected MID Facilities are to be Relocated from the existing MID Right-of-Way to a new location, the AUTHORITY shall convey or cause to be conveyed a new right-of-way for such relocated Facilities on terms and conditions that are substantially similar as will correspond to the existing MID Right-of-Way. For such Relocations, the AUTHORITY shall issue, or cause to be issued, to MID, without

charge to MID, appropriate replacement rights in the new location mutually acceptable to both the AUTHORITY and MID for those rights previously associated with the existing MID Right-of-Way. In the event Without limiting the foregoing, if MID has exclusive rights to the existing MID Right-of-Way, any replacement right-of-way shall provide MID with similar exclusive rights, except to the extent that the new location falls within the right-of-way under the jurisdiction of the AUTHORITY. In that event, the AUTHORITY and MID shall jointly execute a Common Use Agreement. In consideration for these replacement rights being issued by the AUTHORITY, MID shall subsequently quitclaim to the AUTHORITY, or its nominee, within the AUTHORITY's Right-of-Way, all of its corresponding right, title and interest in and to the MID Right-of-Way so vacated. Upon completion of the MID Facility Work by the AUTHORITY, the new MID F facilities shall become the property of MID, and MID shall have the same rights in the new location that it had in the old location as modified by agreements in writing between the AUTHORITY and MID.

5.3 Compensation for MID Fee Title. If the existing MID Right-of-Way includes fee title, the AUTHORITY shall acquire from MID, for just compensation under State-California law, those property rights required by the AUTHORITY for its the Rail Facilities by separate transaction, leaving to MID those remaining property rights appropriate for the placement and operation of the MID Facilities in the MID Right-of-Way, as reasonable determined by MID. Upon completion of MID Facility Work by the AUTHORITY or the Authority's Contractor, the new MID Facilities shall become property of MID, and MID shall have the same rights in the new location that it had in the old location as modified by agreements in writing between the AUTHORITY and MID.

Article VI MISCELLANEOUS

6.1 Compliance with Public Works Laws. The AUTHORITY shall be responsible to comply with or ensure compliance by its the Authority's Contractor with all stateall applicable California and federal laws relating to the construction of public works projects, including, but not limited to, applicable provisions of the California Public Contract Code, the California Labor Code, and any laws or regulatory requirements associated with the use of federal funds ("Public Works Laws"). The AUTHORITY acknowledges that MID does not have extensive experience with public works projects that involve state and federal funds, and that MID has elected to have the AUTHORITY perform the MID Facilities Work for, among other reasons, the purpose of utilizing the AUTHORITY's resources in complying with Public Works Laws. The AUTHORITY shall defend, indemnify and hold MID harmless from and against any liability Claims arising from failure to comply with Public Works Laws, except where the responsibility for compliance with such laws cannot legally be shifted from MID.

6.2 Compliance with CEQA. The AUTHORITY shall be solely responsible for all environmental review and other actions required under the California Environmental Quality Act and any other state or federal environmental review laws applicable to any Project ("Environmental Review Laws"), except for those actions which by law cannot be delegated to another agency and must be taken by MID. To the maximum extent permitted by law, the

AUTHORITY shall defend, indemnify and hold MID harmless from and against any ~~liability~~ Claims arising from any failure to comply with Environmental Review Laws as described in this Section 6.2.

Comment [A2]: What about MID CEQA compliance? What are they relying on at this point? A Program EIR?

Comment [A3]: CEQA review will be completed by the Authority. Section also references that Authority will indemnify MID. This is the language that FID drafted for this section.

6.3 State Funds. No state funds or resources are allocated or encumbered as against this Agreement and the AUTHORITY's obligations and duties expressed herein are conditioned upon the passage of the annual State Budget Act and the allocation of funds by the California Department of Finance and the encumbrance of funds under a subsequently executed Task Order.

6.4 American Recovery and Reinvestment Act and Authority. To the extent applicable, the provisions included in Exhibit D, "ARRA AND AUTHORITY PROVISIONS," are hereby incorporated in this Agreement.

6.5 Force Majeure. Neither MID nor the AUTHORITY shall be liable to the other for any failure to perform under this Agreement to the extent such performance is prevented by an act of God, act of civil or military authority, riot, fire, earthquake, strike, flood, power blackout, natural catastrophe, or any other event beyond the reasonable control of the non-performing party and which could not have been avoided or overcome by the exercise of due diligence; provided that the party claiming the excuse from performance has: (a) promptly notified the other party of the occurrence and its estimated duration, (b) promptly remedied or mitigated the effect of the occurrence to the extent possible, and (c) resumed performance as soon as possible. ~~If any such event of Force Majeure occurs, MID agrees, if requested by AUTHORITY, to accelerate its efforts if reasonably feasible in order to regain lost time, so long as AUTHORITY agrees to reimburse MID for the reasonable and actual costs of such efforts practicable.~~

6.6 Time. Time is of the essence of this Agreement and each and all of its provisions.

6.7 Effect of Headings. The subject headings of the paragraphs and subparagraphs of this Agreement are included for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions.

6.8 Entire Agreement. This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter contained in it and supersedes all prior and contemporaneous agreements, representations, and understandings of the Parties. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by all of the Parties hereto.

6.9 Waiver. Waiver of any breach of this Agreement by any party hereto shall not constitute a continuing waiver or a waiver of any breach of the same or another provision of this Agreement.

6.10 Counterparts; Fax and Email Signatures. This Agreement may be executed in any number of counterparts and each such counterpart shall be deemed to be an original instrument, all of which together shall constitute one and the same instrument. Facsimile and electronic mail signature pages shall constitute originals, however, without affecting the enforceability of such signatures as originals, each party shall provide original signature pages to the other parties within five (5) business days of the execution of this Agreement.

6.11 Assignment; Binding Effect. Neither party shall assign any interest in this Agreement without the express written consent of the other party, which shall not be unreasonably withheld. Notwithstanding the foregoing, the AUTHORITY shall be permitted to assign this agreement to the Authority's Contractors without the Consent of FIDMID. This Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, assigns, and successors of the parties hereto.

6.12 Interpretation. It is agreed and acknowledged by the parties that this Agreement has been arrived at through negotiation, and that each party has had a full and fair opportunity to revise the terms of this Agreement. Consequently, the normal rule of construction that any ambiguities are to be resolved against the drafting party shall not apply in construing or interpreting this Agreement.

6.13 Disputes. The AUTHORITY and the LOCAL AGENCY agree that, as a general principle, the PARTIES shall attempt to resolve any and all disputes arising under this Agreement through a collaborative partnering process, which shall attempt to identify and resolve potential disputes without resort to formal legal process. In the event the LOCAL AGENCY disagrees with a determination or matter made by the AUTHORITY, the LOCAL AGENCY shall provide prompt written notice of its objection and the reasons for such objection. Thereafter, the PARTIES shall attempt to resolve such dispute through the partnering process, which may include escalation with the AUTHORITY at the AUTHORITY's discretion. If, within 14 days after conclusion of such partnering, the dispute persists, then the LOCAL AGENCY shall request a written statement of the AUTHORITY concerning its decision. The AUTHORITY shall reduce its decision to writing and mail or otherwise furnish a copy thereof to the LOCAL AGENCY. The decision of the AUTHORITY shall be final and conclusive unless, on or before the 28th day from the date of receipt of such copy, the LOCAL AGENCY mails or otherwise furnishes a written appeal addressed to the AUTHORITY. The AUTHORITY shall then, within two weeks thereafter, either issue a modified decision, or such prior decision shall stand. If the dispute still remains after such decision, then either PARTY may, within 42 days after such decision is issued or deemed affirmed, refer the dispute to binding arbitration.

In connection with any appeal of the AUTHORITY'S decision, the LOCAL AGENCY shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. At all times during the course of the dispute resolution process, the LOCAL AGENCY shall continue with or permit the continuance of the Work as directed, in a diligent manner, and without delay; shall conform to any of the AUTHORITY'S responses, decisions, or orders; and shall be governed by all applicable provisions of the Agreement. Records of the Work shall be kept in sufficient detail to enable payment in accordance with applicable provisions in this Agreement irrespective of the ultimate outcome of any dispute.

In the event either PARTY, within the timeframe specified above, elect to refer a dispute to binding arbitration, then within 30 days after such request, the PARTIES will seek to appoint a panel of three arbitrators with not less than 10 years' experience each in complex construction disputes involving public works transportation projects. If the PARTIES cannot agree on a panel

of three arbitrators, then each PARTY shall appoint one arbitrator, with the two so selected choosing the third arbitrator; in each instance, such arbitrator shall meet the relevant qualifications. The arbitration proceeding shall be conducted in accordance with the procedures specified in California Public Contract Code Section 10240 *et seq.* and the implementing regulations thereto. The decision of the arbitrators shall be binding on the PARTIES and any judgment on the award there rendered may be entered in the Superior Court for Madera County.

If it is determined, on appeal, that the AUTHORITY'S interpretation of the Agreement, direction to the LOCAL AGENCY, or any other action required by the AUTHORITY's decision was an erroneous determination of the rights and obligations of the PARTIES under the Agreement, the LOCAL AGENCY's claim and any award by resolver of the dispute shall be limited to the incremental costs incurred by the LOCAL AGENCY with respect to the disputed matter (crediting the AUTHORITY for any corresponding reduction in the LOCAL AGENCY'S other costs) and shall in no event exceed the amounts allowed hereunder with respect thereto.

6.13 — ~~Dispute Resolution.~~ Notwithstanding any other provision of this Agreement, either party may choose to have any dispute regarding the construction or application of any of the terms, covenants, or conditions of this Agreement settled by arbitration as provided in this Section 6.14. This Section shall apply only to monetary disputes and requests for declaratory relief; the arbitrator(s) shall not have the power to compel specific performance or provide injunctive relief.

~~(a) — A party may demand arbitration by delivering a written demand to the other party within 60 days after occurrence of the dispute. Such arbitration shall comply with and be governed by the provisions of California Code of Civil Procedure Section 1280 through 1294.2, except to the extent those provisions are inconsistent with the provisions of this Section 6.14, in which case the provisions of this Section 6.14 shall govern.~~

~~(b) — The parties may agree on one arbitrator. If they cannot agree on one arbitrator, there shall be three: one named in writing by each of the parties within five days after demand for arbitration is given, and a third chosen by the two appointed. Should either party refuse or neglect to join in the appointment of the arbitrator(s) or to furnish the arbitrator(s) with any papers or information demanded, the arbitrator(s) may proceed ex parte.~~

~~(c) — A hearing on the matter to be arbitrated shall take place before the arbitrator(s) in Madera, California, the time and place to be selected by the arbitrator(s). The arbitrator(s) shall give each party written notice of the time and place at least 20 days before the date selected. At the hearing, any relevant evidence may be presented by either party, and the formal rules of evidence applicable to judicial proceedings shall not govern. Evidence may be admitted or excluded in the sole discretion of the arbitrator(s). The arbitrator(s) shall hear and determine the matter and shall execute and acknowledge the award in writing and cause a copy of the writing to be delivered to each of the parties.~~

~~(d) — If there is only one arbitrator, his or her decision shall be binding and conclusive on the parties, and if there are three arbitrators, the decision of any two shall be binding and conclusive. A judgment confirming the award may be given by any superior court~~

~~having jurisdiction, or that court may vacate, modify, or correct the award in accordance with the prevailing provision of the California Arbitration Act.~~

6.14 Professionals' Fees. Should any action or proceeding be commenced between the ~~P~~parties hereto concerning this Agreement, or the rights and duties of any party in relation thereto, the ~~P~~party prevailing in such action or proceeding shall be entitled, in addition to such other relief as may be granted, to recover from the losing ~~P~~party a reasonable sum for its attorneys', paralegals', accountants', and other professional fees and costs incurred in connection with such action or proceeding.

6.15 Governing Law. This Agreement shall be governed by the laws of the State of California. Venue for any action or proceeding shall lie in the County of Madera, California.

6.16 Construction. All words used in this Agreement shall be construed to include the plural as well as the singular number and vice versa. Words used herein in the present tense shall include the future as well as the present, and words used in the masculine gender shall include the feminine and neuter genders.

~~6.17 — Parties in Interest. Nothing in this Agreement, whether expressed or implied, is intended to confer any rights or remedies on any persons other than the parties hereto and their respective successors and assigns, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third person to any party to this Agreement, nor shall any provision give any third person any right of subrogation or action over and against any party to this Agreement.~~

~~6.18~~6.17 Survival. Each of the terms, provisions, representations, warranties, and covenants of the ~~P~~parties shall be continuous and shall survive the completion of any MID Facilities Work contemplated in this Agreement.

~~6.19~~6.18 Notices. All notices and other communications required under this Agreement shall be in writing and shall be deemed to have been duly given (i) on the date of service, if served personally on the person to whom notice is to be given, (ii) on the date of service if sent by telecopier, provided the original is concurrently sent by first class mail, and provided that notices received by telecopier after 5:00 p.m. shall be deemed given on the next business day, (iii) on the next business day after deposit with a recognized overnight delivery service, or (iv) on the third (3rd) day after mailing, if mailed to the party to whom notice is to be given by first class mail, registered or certified, postage-prepaid, and properly addressed as follows:

To AUTHORITY: California High Speed Rail Authority
Thomas Fellenz, General Counsel
770 L Street, Suite 800
Sacramento, CA 95814
Fax: (916) 322-0827

To MID: Madera Irrigation District
12152 Road 28 1/4

Comment [A4]: TPA added references to CHSRA contact

Madera, CA 93637
Attn: General Manager
Fax: (559) 673-3514

A Party may change its address for notices by providing notice to the other parties as provided above.

~~6.20~~ 6.19 Severability. Any provision hereof found to be unlawful or unenforceable shall be severable and shall not affect the validity of the remaining portions hereof.

~~6.21~~ 6.20 Default. In the event that either Party breaches any provision of this Agreement, then in addition to any other remedies which are otherwise provided for in this Agreement or by ~~the~~ Law, the other Party may (a) pursue a claim for damages suffered, or (b) perform any work with its own forces or through subcontractors and seek repayment for the cost thereof. Termination of this Agreement shall not relieve either Party from any obligations it has pursuant to other agreements or Task Orders between the Parties, nor from any statutory obligations that either Party may have with regard to the subject matter hereof. The Parties acknowledge and agree that delays in Relocations may impact the public convenience, safety and welfare, and that monetary damages could be inadequate to compensate for delays in the construction of the AUTHORITY Project. Consequently, the Parties shall be entitled to specific performance in the event of any breach of this Agreement that imminently threatens to delay the AUTHORITY Project or Project construction.

~~6.22~~ 6.21 Project Cancellation. If any portion of the AUTHORITY's Project ~~(s)~~ which precipitated this Agreement is canceled or modified so as to eliminate the necessity of the MID Facilities Work, the AUTHORITY will notify MID in writing, and the AUTHORITY reserves the right to terminate this Agreement as to such Project by amendment. The amendment shall provide mutually acceptable terms and conditions for terminating the Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective as of the date first above written.

California High Speed Rail Authority, an
agency of the State of California

Madera Irrigation District, a California
irrigation district

By _____

Its _____

By _____
xxxxxxx, President

Comment [A5]: MID to identify

AUTHORITY Legal Review

By _____
xxxxxxxxx, Secretary

Comment [A6]: MID to identify

By _____

AUTHORITY Legal Counsel

EXHIBIT A
DESIGN BUILD PROCEDURES

The following process shall apply separately to each phase or segment of the Project, as established in accordance with the agreement between the Authority's Contractor and the AUTHORITY.

A-1 Initial Coordination.

- (a) The AUTHORITY will develop 3015% design submittals of the Rail Facilities, showing locations of existing MID Facilities.
- (b) MID will furnish markups to the AUTHORITY of the 3015% submittals within fifteen (15) working days.
- (c) The AUTHORITY will prepare proposed preliminary design plans that indicate which MID Facilities are to be Relocated and conceptual arrangements of the Relocated facilities.
- (d) MID will verify, to the best of its ability, the correctness of the proposed preliminary design plans prepared by the AUTHORITY.
- (e) These plans will form the basis of the Plans and Specifications. Once the Plans and Specifications have been approved by MID, MID shall have sole and full responsibility for the accuracy of depicted MID Facilities.

A-2 Plans and Specifications. The Authority's Contractor, together with the Engineer, shall perform all design services for the MID Facilities~~iesy~~ Work in connection with each Project.

- (f) The Authority's Contractor will provide a preliminary copy of Project-specific Plans and Specifications to MID according to the AUTHORITY's Contractor's approved schedule and may include intermediate, Released for Construction (RFC) and As Built Stages.
- (g) MID shall have fifteen (15) working days from receipt of the preliminary Plans and Specifications intermediate submittal to review them, and to provide comments to the AUTHORITY~~Authority's Contractor~~. MID shall also provide any applicable technical provisions and standard drawings along with its comments.
- (h) At such time as the Authority's Contractor has prepared ~~final-RFC~~ Plans and Specifications for the MID Facilities~~iesy~~ Work, the AUTHORITY's ~~CONTRACTOR~~Authority's Contractor will provide a copy thereof to MID. The ~~final-RFC~~ Plans and Specifications shall incorporate the comments of MID provided that the comments are reasonable.

(i) MID shall have fifteen (15) working days from receipt of the ~~final~~-RFC Plans and Specifications to review them and provide final comments to the Authority's Contractor~~UTHORITY~~.

(j) The Authority's Contractor shall make final corrections to the RFC Plans and Specifications and provide a copy to MID.

(k) The Authority's Contractor shall perform the MID Facilityiesy Work in accordance with the RFC Plans and Specifications as ~~approved-corrected~~ by MID.

(l) The ~~AUTHORITY~~-Authority's Contractor shall provide MID with as-built drawings of MID Facilityiesy Work. The as-built drawings shall be in the format provided for in the Task Order for that particular MID Facilityiesy Work.

(m) ~~Furthermore,~~ MID's failure to provide review and comment of Plans submitted by the AUTHORITY or the AUTHORITY'S CONTRACTOR, including but not limited to Plans and Specifications, shall be deemed approval of plans allowing the AUTHORITY to proceed with design and construction of Facility Work.

EXHIBIT B

General Project Construction Requirements

B-1 Replacement of Existing Pipelines and Small/Medium Channel Open Canals.

(a) All open channels and existing pipelines shall be replaced with ASTM C-361 Rubber Gasket Reinforced Concrete Pipe (RGRCP).

(b) All pipelines shall be buried to a minimum depth of 36 inches.

(c) If an MID Facility is to be relocated, the AUTHORITY shall acquire an exclusive easement on MID's behalf, at MID's standard widths for such facility and on MID's standard terms and conditions.

~~(e)~~(d) All work shall confirm to MID standards and specifications.

B-2 Large Canal Crossing Requirements. Crossings for large canals shall protect the canal's integrity for an urban setting, and shall be designed to convey the water in a safe and efficient manner without altering the existing conditions in a negative manner in regards to MID's operations and maintenance. Additional requirements include:

~~(d)~~(e) Minimum freeboard of 2.0 feet through the canal crossing shall be maintained where possible. Crossings shall clear span bridges with no obstructions within the canal whenever reasonably possible.

~~(e)~~(f) Multiple bay culverts or bridges with pilings design must include sufficient access to remove trash in a safe and efficient manner, including additional access easement rights if necessary. Maintenance accessibility for trash removal shall be evaluated based on channel size, the amount of trash anticipated at the location in question and accessibility. Galvanized steel or concrete catwalk will be required on the upstream side of the bridge/culvert structure for MID's crews to access the collected trash. Trash piers, board guides, aprons and ladders shall be constructed in accordance with MID's current requirements.

~~(f)~~(g) Sufficient easement rights for MID to dredge the canals in accordance with its standard practices, including access for heavy equipment and trucks.

~~(g)~~(h) Relocation of existing road crossings which parallel Rail Facilities, such as Golden State Boulevard, must include access to both canal banks from the road. In general, a 50-foot wide drive approach narrowing to 20 feet wide drive bank will be required for each canal bank; different road crossings may require different access routes.

~~(h)~~(i) Culverts are to be extended past the AUTHORITY's right-of-way such that MID's equipment can safely access both banks for operations and maintenance purposes. All culverts require a minimum a minimum of 20 feet for 1 ton vehicle access; some crossings may need to be extended for larger equipment.

(j) Sufficient turnaround areas to accommodate the types of equipment necessary to maintain the MID Facility in question. Larger turnaround areas will be required for larger trucks and equipment.

(k) Gaps between bridges and culverts shall be of sufficient length for MID to reasonably maintain the gap area. Gaps that are too small for MID to maintain, as determined by MID in its reasonable discretion, shall not be permitted, and the two crossings shall be combined into a single crossing.

(l) At transition areas between bridge/culvert and open canal:

(i) Canal slopes shall be stabilized as necessary to shape side slopes to 1.5:1 (H:V) and shall be compacted to a minimum of 93 percent of maximum density.

(ii) All disturbed soil shall be concrete lined (both side slopes and bottom). In areas close to the Rail Facilities where access will be potentially dangerous for maintenance workers, structurally reinforced concrete will be required to minimize on-going maintenance activities.

(iii) Drive banks must be sloped a minimum of 2% away from the canal with provisions made for rainfall. Drainage will not be accepted into and must be routed away from canals, and must be conveyed to nearby public streets or drainage system by drainage swales or other alternatives reasonably acceptable to MID.

(iv) Drive banks shall be overlaid with 3 inches of Class 2 aggregate base course for all-weather access.

(v) All existing trees, bushes, debris, old canal structures, pumps, canal gates, and other non- or in-active MID and private structures must be removed within the MID Right-of-Way.

(w) All work shall conform to MID standards and specifications.

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B-3 Construction Windows. All construction must occur outside MID's irrigation season. The permitted construction window shall be September 1 through February 22, except that: An exception to the above construction window requirement can only occur by mutual agreement between the Authority's Contractor and MID.

(l) In years when the central Sierra snowpack is ____% of normal, MID may extend the irrigation season, delaying the start of the construction window to not later than ____; and

(m) In years of below average precipitation, MID may move the start of the construction window to an earlier date, in its sole discretion.

B-4 Stormwater Routings. Where MID Facilities are used for stormwater and flood control, a bypass may be required, depending on the canal system, construction schedule,

water season, and storm season. If a bypass is not constructed, all water will be required to pass through the Project site.

(n) MID will determine the minimum flow rate if a bypass is required. The Engineer shall design the bypass system at ~~the AUTHORITY's~~ Authority's Contractor expense. The bypass system shall include facilities as necessary to convey waters downstream and away from the Project, and shall be the responsibility of ~~AUTHORITY and/or the~~ Authority's Contractor to install and maintain at all times.

(o) Should a bypass channel be constructed, a drive bank on both sides of the channel shall be incorporated for maintenance and operation purposes.

(p) Cofferdams (if any) must be constructed one foot below the canal's high water level.

(q) The AUTHORITY shall obtain appropriate easements or other rights necessary for the construction and operation of any bypass facilities located outside the existing MID right of way. The AUTHORITY shall cause the landowner and any parties in possession of the property where the bypass channel is located to release MID from any liability in the operation of such bypass.

B-5 Elevated Rail Facilities. Where Rail Facilities are to be located above grade:

(r) Pilings or columns for elevated Rail Facilities crossing MID pipelines shall be located outside of the MID Right-of-Way. Alternatively, the AUTHORITY may cause the pipeline to be replaced with RGRCP as described in Section B-1 above, with large spread footings for pilings or columns.

(s) Pilings or columns for elevated Rail Facilities crossing MID open canals may not be located in MID Right-of-Way. Gaps between elevated Rail Facilities over open canals shall be of sufficient length for MID to reasonably maintain the gap area. Portions of canals within such gaps that are too small for MID to maintain, as determined by MID in its reasonable discretion, shall be replaced with underground pipe.

(t) Sufficient clearance shall be provided over both canal maintenance/access roads for MID's largest equipment being hauled on a large tractor truck and trailer, unless the Rail Facilities right-of-way is to be fenced, eliminating access.

(u) If the Rail Facilities right-of-way is to be fenced, the AUTHORITY shall pipe the canal or place the canal within a culvert, such that routine maintenance is no longer necessary, and shall provide MID with an additional upstream trash collection location.

EXHIBIT C – STAKEHOLDER COLLABORATION

In order to accomplish ~~the AUTHORITY Project~~~~PROJECT(s)~~ through the most effective means available, a collaborative relationship will be formed as agreed to by Parties in Section 3.16 “Stakeholder Collaboration.” As part of this collaboration, a cooperative management team would be developed, which would draw on the strengths of each team member in an effort to achieve a quality project within budget and on schedule. Cooperation and collaboration are strongly encouraged in preference to formal dispute resolution and adjudication mechanisms. Collaboration in this context is intended to be mandatory, but non-binding. The identified procedures will be available for use by the Stakeholders to resolve issues that may arise during the performance of MID Facilities~~ies~~ Work.

INITIAL KICK-OFF WORKSHOP

~~In order to achieve effective and efficient completion of the Project(s) the~~The Stakeholders agree to conduct a kick-off workshop where they will identify issues for resolution that are present or foreseeable and engage in joint problem solving and action planning on the issues identified.

At a minimum, during this workshop, participants will develop the following procedures and agreements to facilitate the collaborative relationship and aid in identifying and resolving issues as they may arise throughout the Project:

- A. “Issues Resolution Ladder” (~~IRLS~~) – a hierarchy of those individuals within the Project including the Stakeholders ~~and Dispute Resolution Board~~ and extending across organizational boundaries to address issues as they arise to facilitate communication and address issues before those issues are elevated to the next ladder rung.
- B. “Collaboration Implementation Plan” (CIP) – the intention of the CIP is to sustain the collaborative relationship after the kick-off meeting by establishing monthly or quarterly schedule of stakeholder meetings and any procedures necessary for the identification and resolution of any issues during the performance of the MID Facilities~~ies~~ Work to be addressed by the Stakeholders.
- C. “Cooperative Charter” – the charter will express the vision for the project, a statement of mutual goals and positive behavior practices and will be a visual reminder of mutual commitment to the stakeholders vision, goals and relationship. The charter will be signed by all Stakeholders.

STAKEHOLDER MEETINGS

The purpose of the stakeholder meetings will be to evaluate the efficacy of the stakeholders relationship and review its processes as necessary to improve or correct any procedures/practices and efficiently identify and resolve Project issues.

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EXHIBIT D – ARRA AND AUTHORITY PROVISIONS

1. ARRA T&C

SUPPLEMENTAL TERMS AND CONDITIONS FOR CONTRACTS USING ARRA FUNDS

1. **ARRA FUNDED PROJECT:** Funding for this contract has been provided through the American Recovery and Reinvestment Act (ARRA) of 2009, Pub. L. 111-5. All contractors, including both prime and subcontractors, are subject to audit by appropriate federal or State of California (State) entities. The State has the right to cancel, terminate, or suspend the contract if any contractor or subcontractor fails to comply with the reporting and operational requirements contained herein.
2. **ENFORCEABILITY:** Contractor agrees that if Contractor or one of its subcontractors fails to comply with all applicable federal and State requirements governing the use of ARRA funds, the State may withhold or suspend, in whole or in part, funds awarded under the program, or recover misspent funds following an audit. This provision is in addition to all other remedies available to the State under all applicable State and federal laws.
3. **PROHIBITION ON USE OF ARRA FUNDS:** Contractor agrees in accordance with ARRA, Section 1604, that none of the funds made available under this contract may be used for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pools.
4. **REQUIRED USE OF AMERICAN IRON, STEEL AND OTHER MANUFACTURED GOODS:** Contractor agrees that in accordance with ARRA, Section 1605, neither Contractor nor its subcontractors will use ARRA funds for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel and manufactured goods used in the project are produced in the United States in a manner consistent with United States obligations under international agreements. The Contractor understands that this requirement may only be waived by the applicable federal agency in limited situations as set out in ARRA, Section 1605.
5. **WAGE RATE REQUIREMENTS:** In accordance with ARRA, Section 1606, the Contractor assures that it and its subrecipients shall fully comply with said Section and notwithstanding any other provision of law and in a manner consistent with other provisions of ARRA, all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the federal government pursuant to ARRA shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the United States Secretary of Labor in accordance with Subchapter IV of Chapter 31 of Title 40, United States Code (Davis-Bacon Act). It is understood that the Secretary of Labor has the authority and functions set forth in Reorganization Plan Numbered 14 or 1950 (64 Stat. 1267; 5 U.S.C. App.) and Section 3145 of Title 40, United States Code.
6. **INSPECTION OF RECORDS:** In accordance with ARRA Sections 902, 1514 and 1515, Contractor agrees that it shall permit the State of California, the United States Comptroller General or his representative or the appropriate Inspector General appointed under Section 3 or 8G of the United States Inspector General Act of 1978 or his representative to: (1) examine any records that directly pertain to, and involve transactions relating to, this contract; and (2) interview any officer or employee of Contractor or any of its subcontractors regarding the activities funded with funds appropriated or otherwise made available by the ARRA. Contractor shall include this provision in all of the contractor's agreements with its subcontractors from whom the contractor acquires goods or services in its execution of the ARRA funded work.
7. **WHISTLEBLOWER PROTECTION:**
Contractor agrees that both it and its subcontractors shall comply with Section 1553 of the ARRA, which prohibits all non-federal Contractors, including the State, and all contractors of the State, from discharging, demoting or otherwise discriminating against an employee for disclosures by the employee that the employee reasonably believes are evidence of: (1) gross mismanagement of a contract relating to ARRA funds; (2) a gross waste of ARRA funds; (3) a substantial and specific danger to public health or safety related to the implementation or use of ARRA funds; (4) an abuse of authority related to implementation or use of ARRA funds; or (5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) awarded or issued relating to ARRA funds. Contractor agrees that it and its subcontractors shall post notice of the rights and remedies available to employees under Section 1553 of Title XV of Division A of the ARRA.
8. **FALSE CLAIMS ACT:** Contractor agrees that it shall promptly notify the State and shall refer to an appropriate federal inspector general any credible evidence that a principal, employee, agent, subcontractor or other person has committed a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving ARRA funds.
9. **REPORTING REQUIREMENTS:** Pursuant to Section 1512 of the ARRA, in order for state agencies receiving ARRA funds to prepare the required reports, Contractor agrees to provide the awarding state agency with the following information on a monthly (quarterly) basis:
 - a. The total amount of ARRA funds received by Contractor during the Reporting Period;
 - b. The amount of ARRA funds that were expended or obligated during the Reporting Period;
 - c. A detailed list of all projects or activities for which ARRA funds were expending or obligated, including:

08/10/09

**SUPPLEMENTAL TERMS AND CONDITIONS FOR
CONTRACTS USING ARRA FUNDS**

- (i.) The name of the project or activity;
 - (ii.) A description of the project or activity;
 - (iii.) An evaluation of the completion status of the project or activity; and
 - (iv.) An estimate of the number of jobs created and /or retained by the project or activity;
- d. For any contracts equal to or greater than \$25,000:
- (i.) The name of the entity receiving the contract;
 - (ii.) The amount of the contract;
 - (iii.) The transaction type;
 - (iv.) The North American Industry Classification System (NAICS) code or Catalog of Federal Domestic Assistance (CFDA) number;
 - (v.) The Program source;
 - (vi.) An award title descriptive of the purpose of each funding action;
 - (vii.) The location of the entity receiving the contract;
 - (viii.) The primary location of the contract, including the city, state, congressional district and country;
 - (ix.) The DUNS number, or name and zip code for the entity headquarters;
 - (x.) A unique identifier of the entity receiving the contract and the parent entity of Contractor, should the entity be owned by another; and
 - (xi.) The names and total compensation of the five most highly compensated officers of the company if it received: 1) 80% or more of its annual gross revenues in Federal awards; 2) \$25M or more in annual gross revenue from Federal awards and; 3) if the public does not have access to information about the compensation of senior executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 or section 6104 of Internal Revenue Code of 1986.;
- e. For any contracts of less than \$25,000 or to individuals, the information required above may be reported in the aggregate and requires the certification of an authorized officer of Contractor that the information contained in the report is accurate.

Any other information reasonably requested by the State of California or required by state or federal law or regulation.

Standard data elements and federal instructions for use in complying with reporting requirements under Section 1512 of the ARRA, are pending review by the federal government, and were published in the Federal Register on April 1, 2009 [74 FR 14824], and are to be provided online at www.FederalReporting.gov. The additional requirements will be added to this contract(s).

08/10/09

2. CCC 307 – CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

Contractor/Bidder Firm Name (Printed)		Federal ID Number
By (Authorized Signature)		
Printed Name and Title of Person Signing		
Date Executed	Executed in the County of	

CONTRACTOR CERTIFICATION CLAUSES

1. **STATEMENT OF COMPLIANCE:** Contractor has, unless exempted, complied with the nondiscrimination program requirements. (GC 12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)
2. **DRUG-FREE WORKPLACE REQUIREMENTS:** Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:
 - a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
 - b. Establish a Drug-Free Awareness Program to inform employees about:
 - 1) the dangers of drug abuse in the workplace;
 - 2) the person's or organization's policy of maintaining a drug-free workplace;
 - 3) any available counseling, rehabilitation and employee assistance programs; and,
 - 4) penalties that may be imposed upon employees for drug abuse violations.
 - c. Every employee who works on the proposed Agreement will:
 - 1) receive a copy of the company's drug-free workplace policy statement; and,
 - 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: (1) the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (GC 8350 et seq.)

3. **NATIONAL LABOR RELATIONS BOARD CERTIFICATION:** Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court which orders Contractor to comply with an order of the National Labor Relations Board. (PCC 10296) (Not applicable to public entities.)
4. **CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT:** Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

(Continued on next page)

CCC 307 – CERTIFICATION

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lesser of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with State of California.

6. SWEATFREE CODE OF CONDUCT:

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph a.

7. DOMESTIC PARTNERS: For contracts over \$100,000 executed or amended after January 1, 2007, the contractor certifies that contractor is in compliance with Public Contract Code section 10295.3.

NOTE: This form represents only the certification portion of the Contractor Certification Clauses (CCC). Additional information about contracting with the State appears in the full text of the applicable CCC. Visit this web site to view the entire document:
<http://www.ols.dgs.ca.gov/Standard+Language/default.htm>.

3. GTC 610

DEPARTMENT OF GENERAL SERVICES TERMS AND CONDITIONS

1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. ~~Contractor~~MID may not commence performance until such approval has been obtained.

2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.

3. ASSIGNMENT: This Agreement is not assignable by the ~~Contractor~~MID, either in whole or in part, without the consent of the State in the form of a formal written amendment.

4. AUDIT: ~~Contractor~~MID agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. ~~Contractor~~MID agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. ~~Contractor~~MID agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, ~~Contractor~~MID agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).

5. INDEMNIFICATION: ~~Contractor~~MID agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by ~~Contractor~~MID in the performance of this Agreement.

6. DISPUTES: ~~Contractor~~MID shall continue with the responsibilities under this Agreement during any dispute.

7. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the ~~Contractor~~MID fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the ~~Contractor~~MID under this Agreement and the balance, if any, shall be paid to the ~~Contractor~~MID upon demand.

8. INDEPENDENT CONTRACTOR: ~~Contractor~~MID, and the agents and employees of ~~Contractor~~MID, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. RECYCLING CERTIFICATION: The ~~Contractor~~MID shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

10. NON-DISCRIMINATION CLAUSE: During the performance of this Agreement, ~~Contractor~~MID and its ~~contractors~~ and subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave.

~~ContractorMID, its contractors~~, and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. ~~ContractorMID, its contractors~~ and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. ~~ContractorMID, its contractors~~, and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

~~ContractorMID~~ shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. **CERTIFICATION CLAUSES:** The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 307 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. **TIMELINESS:** Time is of the essence in this Agreement.

13. **COMPENSATION:** The consideration to be paid ~~ContractorMID~~, as provided herein, shall be in compensation for all of ~~ContractorMID~~'s expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. **GOVERNING LAW:** This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

15. **ANTITRUST CLAIMS:** The ~~ContractorMID~~ by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the ~~ContractorMID~~ shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

- 1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.
- 2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. **CHILD SUPPORT COMPLIANCE ACT:** For any Agreement in excess of \$100,000, the ~~contractorMID~~ acknowledges in accordance with Public Contract Code 7110, that:

- a. The ~~contractor~~MID recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
- b. The ~~contractor~~MID, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

17. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

- 18. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the ~~Contractor~~MID shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS:

- a. If for this Contract Contractor made a commitment to achieve small business participation, then ~~Contractor~~MID must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)
- b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then ~~Contractor~~MID must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

20. LOSS LEADER:

If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

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TASK ORDER NO. MID00001
CHSRP Interaction Removal or Relocation Plan

Date: April 6, 2012
LOCAL AGENCY: Madera Irrigation District
Agreement No: 0000000
Task Order No: MID00001
Project Title: California High-Speed Rail Project

GENERAL

This TASK ORDER supplements and amends the Construction Contract and Master Agreement. The purpose of this TASK ORDER is to authorize the FACILITY WORK for LOCAL AGENCY. Each FACILITY that requires relocation will be handled under a separate subtask of this TASK ORDER.

FACILITY WORK TO BE DONE

1. Master Agreement

This TASK ORDER is issued in order to authorize the FACILITY WORK described herein (FACILITY WORK). This TASK ORDER does not express all of the terms and conditions relevant to the FACILITY WORK; accordingly, the Master Agreement and all of the provisions thereof are incorporated into this TASK ORDER by this reference. Capitalized terms used but not identified in this TASK ORDER shall have the definitions set forth in the Master Agreement. All attachments referenced in this TASK ORDER are incorporated herein by such reference. All FACILITY WORK shall be performed in accordance with the requirements of the Master Agreement and, in the event of any inconsistency between the provisions of this TASK ORDER and the Master Agreement, the provisions of the Master Agreement shall prevail.

2. Scope of Work

FACILITY WORK as defined in Section 2.1 of the Master Agreement is incorporated by reference. Each separate FACILITY that requires RELOCATION will be treated as a subtask to this TASK ORDER.

- **Location and General Description of the Work Covered by this TASK ORDER (Including Disposition of Existing Facilities):**
AUTHORITY'S CONTRACTOR will furnish all labor, material, equipment and supervision required to complete the relocation of FACILITIES and appurtenances. All work shall be performed substantially in accordance with "Request for Proposal for Design Build Services-RFP No. 11-16 consisting of Hybrid Alternative, Contract Package 1A, Contract Package 1B and Contract Package 1C, a copy of which is on file in the AUTHORITY'S office at 770 L S, Suite 800, Sacramento, CA 95814.
- **Subject Work to be Performed by Parties Pursuant to this TASK ORDER:**
AUTHORITY'S CONTRACTOR performs all design and construction services for FACILITY WORK. LOCAL AGENCY will review and approve FACILITY PLANS and be entitled to have a reasonable number of representatives on site of PROJECT to verify that the FACILITY WORK is being properly performed by AUTHORITY'S CONTRACTOR and approve that work.

TASK ORDER NO. MID00001
CHSRP Interaction Removal or Relocation Plan

- **Subtask I1.01**

Scope: Secure proper permits, construct bypass facilities, traffic control, dewatering and protect in place “Main Canal” located adjacent to SR 145 and the BNSF rail road track in Madera County. FACILITY WORK is shown on Drawing T1115-A. Caltrans vertical clearance requirements for MID maintenance roads on either side of canal are to be met.

Period of Performance: 36 Months

The estimated value for this FACILITY WORK is \$240,000

- **Subtask I1.02**

Scope: Secure proper permits, construct bypass facilities, traffic control, dewatering and protect in place “Fresno River” in Madera County. New facilities are to be built to ensure that existing maintenance roads meet Caltrans vertical clearance requirements on either side of Fresno River.

Period of Performance: 30 Months

The estimated value for this FACILITY WORK is \$240,000

- **Subtask I1.03**

Scope: Secure proper permits, construct bypass facilities, traffic control, dewatering and construct a double track box culvert to allow HST to go over “Cottonwood Creek” in Madera County.

Period of Performance: 12 Months

The estimated value for this FACILITY WORK is \$240,000

- **Subtask I1.04**

Scope: Secure proper permits, construct bypass facilities, traffic control, dewatering and relocate approximately 2,500 LF of “Lateral 6.2-14” located between Ave 11 and Ave 10 in Madera County. Relocation includes backfilling existing canal, reconstructing turnouts (irrigation services), access roads and reconnecting turnouts to existing facilities. FACILITY WORK is shown on Drawing T1121-A and T1122-A.

Period of Performance: 12 Months

The estimated value for this FACILITY WORK is \$2,032,500

- **Subtask I1.05**

Scope: Secure proper permits, construct bypass facilities, traffic control, dewatering and relocate existing 36” irrigation facilities at Ave 10 proposed grade separation embankment. Automated facilities may be required to counter access restrictions

Period of Performance: 12 Months

The estimated value for this FACILITY WORK is \$240,000

- **Subtask I1.06:**

Scope: Secure proper permits, construct bypass facilities, traffic control, dewatering and construct approximately 120 LF of a double track box culvert to allow HST to go over “Lateral 6.2” between Ave 10 and Ave 9 in Madera County. Facility work includes trash racks, automatic gate at head of lateral 6.2-14.0 located approximated 1,500 west of HST crossing and within lateral 6.2 just west of the lateral 6.2-14.0 head and check structure at SR99 entrance structure. FACILITY WORK is shown on Drawing T1122-A.

Period of Performance: 6 Months

The estimated value for this FACILITY WORK is \$240,000.

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CHSRP Interaction Removal or Relocation Plan

- **Subtask I1.07:**
Scope: Secure proper permits, construct bypass facilities, traffic control, dewatering and realign meter boxes at “Lateral 6.2-13.4 and turnouts at the Ave 9 and Road 32 intersection. Reconstruct check structure north of roadway right of way in kind, provide access roadway between right of way and check structure and reconstruct existing turnouts in kind (south of Ave 10 and east of HST, and south of Ave 10 and west of HST to wet well. FACILITY WORK is shown on Drawing T1123-A.
Period of Performance: 6 Months
The estimated value for this FACILITY WORK is \$240,000.
- **Subtask I1.08:**
Scope: Secure proper permits, construct bypass facilities, traffic control, dewatering and construct approximately 120 LF of a double track box culvert to allow HST to go over “Lateral 6.2-9.2” near Ave 8 in Madera County. Facility work includes trash racks and automatic gates. FACILITY WORK is shown on Drawing T1124-A.
Period of Performance: 6 Months
The estimated value for this FACILITY WORK is \$240,000.
- **Subtask I1.09:**
Scope: Secure proper permits, construct bypass facilities, traffic control, dewatering and construct approximately 120 LF of reinforce concrete pipe to allow HST to go over “Lateral 6.2-9.2-5.0” near Ave 7 in Madera County. FACILITY WORK is shown on Drawing T1125-A.
Period of Performance: 6 Months
The estimated value for this FACILITY WORK is \$240,000.
- **Subtask I1.10:**
Scope: Secure proper permits, construct bypass facilities, traffic control, dewatering and construct retention basins adjacent to HST and laterals in Madera County to allow MID regulate storage.
Period of Performance: 6 Months
The estimated value for this FACILITY WORK is \$240,000.

3. Project Schedule

Deadlines for the completion of FACILITY WORK are provided for in the contract between AUTHORITY and AUTHORITY’S CONTRACTOR.

4. Schedule for FACILITY WORK (This TASK ORDER Only)

AUTHORITY’S CONTRACTOR shall complete the design work in accordance with the schedule specified in this TASK ORDER. AUTHORITY’S CONTRACTOR shall commence construction work only after acceptance of the final design for such work in accordance with Appendix C – Design Build Procedures of the Master Agreement.

Design:

Construction:

TASK ORDER NO. MID00001
CHSRP Interaction Removal or Relocation Plan

Start Date: January 2013
Completion Date: June 2013

Start Date: June 2013
Completion Date: February 2016

PERFORMANCE OF THE FACILITY WORK

1. Design

The design furnished by AUTHORITY'S CONTRACTOR pursuant to this TASK ORDER shall be substantially in accordance with the Proposed Preliminary Design (see Appendix C – Design Build Procedures of the Master Agreement) attached to this TASK ORDER, and shall be consistent with 30% design submittal of the PROJECT plans. All plans for FACILITY WORK are subject to review by AUTHORITY, LOCAL AGENCY, and AUTHORITY'S CONTRACTOR, in accordance with the time frames and procedures set forth in Appendix C – Design Build Procedures of the Master Agreement.

BY LOCAL AGENCY: LOCAL AGENCY will review FACILITY PLANS and be entitled to have a reasonable number of representatives on site of PROJECT to verify the FACILITY WORK is being properly performed by AUTHORITY'S CONTRACTOR.

BY AUTHORITY'S CONTRACTOR: AUTHORITY'S CONTRACTOR performs all design and construction services for FACILITY WORK.

2. Construction

AUTHORITY'S CONTRACTOR will perform all the construction services for the FACILITY WORK. The construction of FACILITY WORK shall be performed substantially in accordance with the final FACILITY PLANS. Deviations from the final FACILITY PLANS may occur only in conformity with the Master Agreement.

LIABILITY FOR WORK

In accordance with Section 3 of the Master Agreement, LOCAL AGENCY and AUTHORITY shall each be responsible for the cost of the FACILITY WORK as specified herein. The total estimated cost for the FACILITY WORK is \$4,192,500.

Cost Allocation

AUTHORITY pays 100 % and LOCAL AGENCY pays 0 % of cost of FACILITY WORK

COST ESTIMATE

The amounts stated herein are estimates of the costs associated with the FACILITY WORK. Authorized expenditures and reimbursements will be based on the terms of the Master Agreement.

1. For Work by LOCAL AGENCY

LOCAL AGENCY's costs for FACILITY WORK shall be developed pursuant to Section 5, "Payment of Work," of the Master Agreement, and shall be performed in accordance with the procedures set forth in Section 4, "Performance of Work" and Appendix C – Design Build Procedures of this Master Agreement.

TASK ORDER NO. MID00001
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2. For Work by AUTHORITY'S CONTRACTOR

AUTHORITY has prepared an initial cost estimate in the amount of \$4,192,500 for the FACILITY WORK included in this TASK ORDER.

AUTHORITY'S CONTRACTOR shall prepare an independent cost estimate for the FACILITY WORK which shall be submitted for AUTHORITY's approval. Such estimate will reflect appropriate estimated charges for BETTERMENT and salvage value, if any. Upon approval, the parties shall revise this TASK ORDER to incorporate the approved estimate.

BETTERMENT, ACCRUED DEPRECIATION, SALVAGE

LOCAL AGENCY shall credit AUTHORITY for the actual cost of any BETTERMENT, salvage value, and accrued depreciation on the FACILITIES as required pursuant to the Master Agreement, and pay the AUTHORITY'S CONTRACTOR for the actual cost of any BETTERMENT constructed by AUTHORITY'S CONTRACTOR.

The FACILITY WORK in this TASK ORDER does not include any BETTERMENT

BILLING AND PAYMENT

Billing and payment shall be in accordance with Section 5, "Payment for Work," of the Master Agreement.

CONTACTS

The contacts for this TASK ORDER will be as follows:

LOCAL AGENCY: Dina Nolan

AUTHORITY: Tony Valdez

AUTHORITY'S CONTRACTOR:

TASK ORDER NO. MID00001
CHSRP Interaction Removal or Relocation Plan

SIGNATURES

This TASK ORDER shall become effective upon the later of:

- (A) The date of signing by the last party signing this TASK ORDER, or
- (B) The completion AUTHORITY's review as indicated by the signature of AUTHORITY's representative, below.

IN WITNESS WHEREOF, this TASK ORDER has been executed under the provisions of Agreement No. _____ between the AUTHORITY, LOCAL AGENCY, and AUTHORITY'S CONTRACTOR. By signature below, the parties hereto agree that all terms and conditions of this TASK ORDER No. ____ and Agreement No. _____ shall be in full force and effect.

LOCAL AGENCY:

BY: _____ DATE: _____
Signature

Typed Name: _____

Typed Title: _____

LOCAL AGENCY Legal Review

BY: _____ DATE: _____
Signature –LOCAL AGENCY'S Legal Counsel

California High Speed Rail Authority (AUTHORITY)

BY: _____ DATE: _____
Signature

Typed Name: _____

Typed Title: _____

AUTHORITY Legal Review

BY: _____ DATE: _____
Signature - AUTHORITY Legal Counsel

(CONTRACTOR):

BY: _____ DATE: _____
Signature

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Typed Name: _____

Typed Title: _____